

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File: EHA / HEER Office
2014-473-ES

October 1, 2014

Walter Chun, Ph.D.
1045 Lolena Place
Honolulu, Hawaii 96817

Facility/Site: Military Family Housing Neighborhoods at Marine Corps Base Hawai'i

Subject: HDOH Response to your Letter dated 8/8/2014, "DOH Approval of Construction on Contaminated Land for the Military Families"

Dear Dr. Chun:

This letter responds to your letter, dated 8/8/2014 (attached), regarding the management of pesticide-impacted soils ("PI soils") in military family housing neighborhoods at Marine Corps Base Hawai'i (MCBH) and other Hawai'i military bases. (We have quoted your letter in italics.)

1. *This is a followup to our complaint since we have not received any further correspondence from the Hawaii Dept of Health (HDOH). We were also informed that the private public ventures (PPV) for military family housing have submitted requests to increase the environmental action levels (EALs) even higher than was previously accepted by the HDOH.*

It is true that Ohana Military Communities (OMC) has proposed further adjustments to their site-specific action levels for use at Marine Corps and Navy military family housing in Hawai'i. However, we do not intend to consider OMC's proposal unless and until OMC were to enter into a formal oversight agreement with HDOH to allow for the detailed level of review that would be required.

2. *In summary the complaint filed in March 2014 and our response to the HDOH in April 2014 addressed the practices by the HDOH to "allow or approve" actions by the PPV to contaminate residential lands where military family housing are constructed and maintained. The conditions created by their previous actions have resulted in numerous unexplained illnesses.*

As previously stated in our 5/22/2014 response (attached) to your 4/16/2014 letter (attached), we have no evidence that residual pesticides are present in surface soils at unacceptable levels anywhere in MCBH housing neighborhoods. HDOH's primary responsibility under HRS 128D is to protect human health and the environment from

risks posed by releases of hazardous substances to the environment. We use the best available science and risk assessment techniques to set protective statewide and site-specific EALs for use in evaluating these risks.

3. *In April 2014 we requested that an investigation be conducted on these practices and that immediate corrective actions be initiated.*

The goal of OMC's *Pesticide Soils Management Plan* is to protect OMC residents' health and the local environment by preventing public exposure to PI soils. The *Plan's* primary means of achieving this goal is to require that all PI soils located in exposed-soil areas (areas not surfaced with asphalt or concrete) must be covered by a layer of clean fill. At MCBH, this layer is at least 24 inches thick. Since new construction activities typically involve excavation, grading, or similar activities that may disturb the PI soil present beneath former building foundations, the *Plan* requires that PI soils be identified and properly managed during such activities to ensure that a clean fill layer is installed in all areas containing PI soils.

On 3/21/2014 we requested from OMC all available information on implementation of their *Pesticide Soils Management Plan*. OMC responded on 4/17/2014. OMC's response includes extensive documentation showing areas where, as specified in their *Plan*, OMC had placed protective clean fill layers on top of PI soils encountered during construction. Note that OMC did not seek HDOH approval of their implementation of the *Plan* and did not provide updates or information on construction activities until our 3/21/2014 request. Post-construction sampling of surface soils in completed neighborhoods was not included in the *Plan* or required by HDOH. As a result, no sampling data is available to support the effectiveness of OMC's actions; on the other hand, we have no evidence that OMC's actions were not effective or that pesticides are present in surface soils at unacceptable levels in OMC housing neighborhoods.

4. *At best actions to stop further actions to increase or to allow increasing any EALs in residential housing areas in Hawaii be implemented.*

As discussed above, all EALs that HDOH has approved — the 2007 site-specific EALs for military family housing projects in Hawai'i, the 2012 site-specific EALs for Hickam Communities, and our 2013 default Tier 1 EALs for statewide use — are protective. Similarly, any future adjustments to EALs, either statewide or site-specific, will be determined using the best available science and risk assessment techniques. In cases where strict HDOH-approved controls are put in place to limit residential exposure to contaminated soils, our risk assessment determinations may allow site-specific EALs higher than the default Tier 1 EALs. This was the case for Hickam Communities, which

Walter Chun, Ph.D.

October 1, 2014

Page 3

conducted a cleanup under an agreement with HDOH that required the implementation of an *Environmental Hazard Management Plan* and ongoing reporting to HDOH.

5. *We also note that the actions by the HDOH appear to imply "approval" and acceptance by the HDOH for the actions by the PPV. It should also be noted that the PPV correspondence continuously state that their housing is safe and that the HDOH "approved" their actions/plans.*

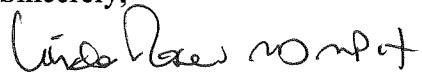
We concurred with OMC's *Pesticide Soils Management Plan* in 2007 because we determined that the effective implementation of the *Plan* would protect human health and the environment from risks posed by PI soils. However, since we do not have conclusive evidence regarding the effectiveness of OMC's implementation of its *Plan*, we cannot approve or disapprove their actions.

6. *We believe that the Hawaii Administrative Rules does not allow the HDOH to accept liability for the failure of the PPV to provide safe housing. We anxiously await a proactive response from the HDOH.*

Under state and federal law, responsible parties shall be held liable for releases or threats of releases of hazardous substances, pollutants, or contaminants.

Thank you for your interest. Should you have further questions about site-specific issues at Marine Corps Base Hawai'i, please contact Mr. Eric Sadoyama of HDOH's Office of Hazard Evaluation and Emergency Response at eric.sadoyama@doh.hawaii.gov or (808) 586-0955.

Sincerely,



LINDA ROSEN, M.D., M.P.H.

Director of Health

Attachment:

1. Letter, dated 8/8/14 from Dr. Walter Chun to HDOH
2. Letter, dated 5/22/14 from HDOH to Dr. Walter Chun
3. Letter, dated 4/16/14 from Dr. Walter Chan to HDOH

c: Mr. Gregory Raap, Ohana Military Communities, Honolulu

(b) (6)

STATE OF HAWAII			ROUTE SLIP				
Department of Health/Environmental Health Administration							
From: Gary L. Gill, EHA Deputy Director						Transmittal Date: 8/18	
TO:	Program (Attn:)	Initial/Date	TO:	Program (Attn:)	Initial Date	Purpose	
	EPO		X	HEER		Action	
	ERO			SLD		Attention	
	EHSD			EMD		Approval	
	• F&D			• CAB		As requested	
	• IN/R			• CWB		Comments	
	• SAN			• SDWB		Direct reply	
	• VC			• SHWB		Discuss with me	
	EH – Hawaii			• WWB		File	
	EH – Kauai			CAO		Information	
	EH – Maui			IT/IM		Investigate and report	
						Recommendation	
						Return by _____	
						Return to _____	
						Signature	
						X Prepare reply for signature	
						Other:	

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